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EXAMINER

MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,497

Applicant(s)

UNITE ET AL.

Examiner

Robert W. Morgan

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M6

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-11,13-16,18,19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-11,13-16,18,19 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. In the amendment filed 2/13/04 in paper number 9, the following has occurred: Claims 1, 2, 4-6, 8-10, 13-16, 18, 21, 22 and 24 have been amended and claims 3, 7, 12, 17, 20 and 26-28 are canceled. Now claims 1, 2, 4-6, 8-11, 13-16, 18, 19 and 21-25 are presented for examination.

Claim Rejections - 35 USC § 112

2. The rejections under 35 U.S.C. 112, second paragraph have been withdrawn by the Examiner based on the changes made by the Applicant to the claims.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to

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pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

(A) In the present case, claims 1-28 recite an abstract idea only. The claims recite steps and means for a) defining processes, b) forming links between processes, traversing processes by meeting exit requirements. These steps and means do not apply, involve, use, or advance the technological arts since they can be performed in the mind of the user or by use of a pencil and paper. These steps and means only constitute an idea of how to define, linking and traversing processes.

In addition, for a claimed invention to be statutory, it must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a method for defining, linking, traversing processes (i.e., repeatable) used in meeting deliverable products or service levels (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-28 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1, 2, 4, 5, 10, 11, 13-14, 18, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over “A Guide To The Project Management Body Of Knowledge” By William R. Duncan in view of Saito et al. (6032124).

As per claim 1, Duncan discloses a system for project management comprising:
information technology for the build and operate program, wherein the program includes:

--the claimed one or more initiating and planning processes (i.e. build processes) (see: Duncan, Fig 3-1, page 28, lines 5-8);

--the claimed one or more executing processes (i.e. operate processes) (see: Duncan, Fig. 3-1, page 28, lines 9-10);

--the claimed one or more controlling and closing processes (see: Duncan, Fig 3-1, page 28, lines 11-14); and

--the claimed wherein selected sets of sequentially-linked ones of the processes are assigned to selected project teams and the sets are designated as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13);

--the claimed wherein the information technology includes data representing i) inputs and outputs for ones of said processes and ii) a plurality of links associated with respective ones of the inputs and outputs, wherein the links provide connections linking outputs from one of said build, operate and management processes to inputs of respective other ones of the build, operate or management processes is met by individual processes that are link by their inputs and outputs (see: Duncan: page 29, paragraph 2). Duncan further teaches the links associated with the exit

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conditions that involve deliverables to be approved before work can proceed (see: Duncan, Fig 3-1, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10);

Duncan fails to explicitly teach a management process using information technology including:

- the claimed wherein such a link has exit conditions associated with the link and the exit conditions for the link must be satisfied before the link can be traversed from output to input; and

- the claimed wherein planning milestones are designated for ones of the outputs having links spanning across two or more of the process streams.

Saito teaches a business workflow system with decentralized management units linked to the business definitions (i.e. management processes) to direct the workflow (see: Fig. 4, col. 5, lines 29-50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include management process(es) as taught by Saito within guide to project management as taught by Duncan with the motivation of coordinating a plurality of business definitions (i.e. processes) and thereby providing an effective business workflow system (see: Saito et al, col. 2, lines 11-16).

Duncan and Saito fail to teach:

- the claimed wherein such a link has exit conditions associated with the link and the exit conditions for the link must be satisfied before the link can be traversed from output to input; and

- the claimed wherein planning milestones are designated for ones of the outputs having links spanning across two or more of the process streams.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include exit conditions and planning milestones as taught by Gundewar et al. with the system as taught by Duncan and Saito et al. with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claims 2 and 11, Duncan teaches that the processes can be overlapping (see Duncan, page 28, lines 19-22, page 11, lines 9-12).

As per claims 4, 13, and 18, Saito et al teaches that the management units manage the business operating processes (see: Saito, col. 5, lines 30-65).

As per claims 5 and 14, the exit conditions as disclosed by Duncan are associated with approved deliverables (see: Duncan, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10).

As per claim 10, Duncan discloses a method for establishing a build and operate program, wherein executing the program includes building and operating information technology, the method, comprising the steps of:

--the claimed defining one or more building processes, wherein executing such a building process includes information technology is met by initiating and planning processes (i.e. build processes) (see: Duncan, Fig 3-1, page 28, lines 5-8);

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--the claimed defining one or more operate processes, wherein executing such an operate process includes information technology is met by the executing processes (i.e. operate processes) (see: Duncan, Fig. 3-1, page 28, lines 9-10);

--the claimed defining one or more management process, wherein the build, operate and management processes have respective inputs and outputs (see: Duncan, Fig 3-1, page 28, lines 11-14);

--the claimed forming a plurality of links associated with respective ones of the inputs and outputs is met by the links for connecting outputs and inputs of the processes (see: Fig 3-1, page 6, lines 15-17). Duncan further teaches the links associated with the exit conditions that involve deliverables to be approved before work can proceed (see: Duncan, Fig 3-1, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10);

--the claimed assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13);

Duncan fails to explicitly teach:

--the claimed link provides connections linking the outputs from ones of said build, operate, and management processes to the inputs of respective other ones of the build, operate, or management processes;

--the claimed associating exit conditions with respective links, wherein the exit condition for a respective one of the links must be satisfied before the link can be traverse from output to input; and

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--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams.

Saito teaches a business workflow system with decentralized management units linked to the business definitions (i.e. management processes) to direct the workflow (see: Fig. 4, col. 5, lines 29-50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include management process(es) as taught by Saito within guide to project management as taught by Duncan with the motivation of coordinating a plurality of business definitions (i.e. processes) and thereby providing an effective business workflow system (see: Saito et al, col. 2, lines 11-16).

Duncan and Saito fail to teach:

--the claimed associating exit conditions with respective links, wherein the exit condition for a respective one of the links must be satisfied before the link can be traverse from output to input; and

--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include associating exit conditions and designing planning milestones as taught by Gundewar et al. with the system as taught by Duncan and Saito et al. with the motivation of

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providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claim 24, Duncan a method for executing a build and operate program comprising the steps of:

a) the claimed determining program requirements is met by the one or more initiating and planning processes (i.e. build processes) (see: Duncan, Fig 3-1, page 28, lines 5-8);

b) the claimed defining responsive to said requirements, build, operate and management processes, and related links therebetween, wherein the build, operate and management processes have respective inputs and outputs, wherein executing such a build process includes building information technology and executing such a operate process includes operating information technology is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13); and

--the claimed assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13);

Duncan fails to teach:

c) the claimed determining what requirements should be met to perform a certain one or more of the processes;

d) the claimed defining exit criteria for one or more of the processes immediately preceding the certain one or more processes for which requirements were determined in step c)

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wherein said exit criteria for such a processes must be satisfied before traversing any such link defined in step b) from the process to another one of the processes;

e) the claimed repeating steps c) and d), in a next interaction thereof, for one or more of the processes immediately preceding the one or more of the processes for which the requirements were determined in the previous interaction of step c), wherein an initial one of the interaction of step c) begins with an ultimate one of the operate processes;

--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams; and

f) the claimed executing the processes, including traversing said links over time.

Saito teaches a business workflow system with decentralized management units linked to the business definitions (i.e. management processes) to direct the workflow (see: Fig. 4, col. 5, lines 29-50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include management process(es) as taught by Saito within guide to project management as taught by Duncan with the motivation of coordinating a plurality of business definitions (i.e. processes) and thereby providing an effective business workflow system (see: Saito et al, col. 2, lines 11-16).

Duncan and Saito fail to teach:

d) the claimed defining exit criteria for one or more of the processes immediately preceding the certain one or more processes for which requirements were determined in step c) wherein said exit criteria for such a processes must be satisfied before traversing any such link defined in step b) from the process to another one of the processes;

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e) the claimed repeating steps c) and d), in a next interaction thereof, for one or more of the processes immediately preceding the one or more of the processes for which the requirements were determined in the previous interaction of step c), wherein an initial one of the interaction of step c) begins with an ultimate one of the operate processes;

--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams; and

f) the claimed executing the processes, including traversing said links over time.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to includes designating planning milestones and executing programs including traversing the links as taught by Gundewar et al. with the system as taught by Duncan with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claim 25, the exit conditions as disclosed by Duncan are associated with approved deliverables (see: Duncan, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10).

7. Claims 6, 9, 15, 16, 19, 21, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over “A Guide To The Project Management Body Of Knowledge” by William R. Duncan in view of U.S. Patent No. 6,381,610 to Gundewar et al.

As per claim 6, Duncan discloses a system for a large-scale sporting event, comprising: information technology for the event, wherein the event includes:

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--the claimed set of one or more initiating and planning processes (i.e. build processes) controlling processes (i.e. testing processes) and executing processes (i.e. operating processes) Duncan, Fig 3-1, page 28, lines 5-14.

--the claimed a plurality of links for connecting outputs and inputs of the processes. Duncan, Fig 3-1, page 6, lines 15-17. The links are associated with the exit conditions that involve deliverables to be approved before work can proceed. Duncan, Fig 3-1, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10.

--the claimed wherein the information technology includes data representing i) inputs and outputs for ones of said processes and ii) a plurality of links, wherein the links provide connections linking outputs from ones of said build, test, operate game-day, and management process to inputs of respective other ones of the build, test operate, game-day, and management processes is met by individual processes that are link by their inputs and outputs (see: Duncan: page 29, paragraph 2). Duncan further teaches the links associated with the exit conditions that involve deliverables to be approved before work can proceed (see: Duncan, Fig 3-1, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10);

--the claimed wherein sets of selected, sequentially-linked ones of the processes are assigned to selected project teams and the sets are designated as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13);

Duncan fails to teach:

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--the claimed wherein such a link has conditions associated with the link and exit conditions for the link must be satisfied before the link can be traversed from output to input; and

--the claimed wherein planning milestones are designated for ones of the outputs having links spanning across two or more of the process streams.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to includes exit conditions and planning milestones as taught by Gundewar et al. with the system as taught by Duncan with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claim 9, the exit conditions as disclosed by Duncan are associated with approved deliverables (see: Duncan, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10).

As per claim 15, Duncan discloses a method for executing a build and operate program, wherein executing the program includes building and operating information technology, the method, comprising the steps of:

--the claimed defining one or more build process, wherein executing such a build process includes building information technology is met by the one or more initiating and planning processes (i.e. build processes) (see: Duncan, Fig 3-1, page 28, lines 5-8);

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--the claimed defining one or more operate processes, wherein executing such an operate process includes operating information technology is met by the one or more executing processes (i.e. operate processes) (see: Duncan, Fig. 3-1, page 28, lines 9-10);

--the claimed forming a plurality of links, wherein the links provide connections linking from one of said build, operate, and management processes to respective other ones of the build, operate, or management processes, such a link being associated with at least one of the outputs and one of the inputs is met by the links for connecting outputs and inputs of the processes (see: Fig 3-1, page 6, lines 15-17). Duncan further teaches the links associated with the exit conditions that involve deliverables to be approved before work can proceed (see: Duncan, Fig 3-1, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10); and

--the claimed assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13);

Duncan fails to explicitly teach:

associated exit conditions with the respective links:

--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams; and

--the claimed executing the program, including traversing the links from their respective outputs to their respective inputs, wherein a respective one of the link is traverse only if the link's exit conditions are satisfied.

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Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to includes designating planning milestones and executing programs including traversing the links as taught by Gundewar et al. with the system as taught by Duncan with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claim 16, Duncan teaches that the processes can be overlapping (see Duncan, page 28, lines 19-22, page 11, lines 9-12).

As per claim 19, the exit conditions as disclosed by Duncan are associated with approved deliverables (see: Duncan, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10).

As per claim 21, Duncan discloses a method for executing a large-scale sporting event, comprising the steps of:

- the claimed defining a set of one or more initiating and planning processes (i.e. build processes) controlling processes (i.e. testing processes) and executing processes (i.e. operating processes) (see: Duncan, Fig 3-1, page 28, lines 5-14);

- the claimed defining a set of management process related to all of said build, testing, operations, and game-day processes, wherein the build, testing, operations, management and game-day processes have respective inputs and outputs (see: Duncan, Fig 3-1, page 28, lines 11-14);

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--the claimed forming a plurality of links associated with respective ones of the inputs and outputs, wherein the links provide connections linking outputs from ones of said build, test, operate, game-day, and management processes is met by the links for connecting outputs and inputs of the processes (see: Fig 3-1, page 6, lines 15-17); and

--the claimed assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13).

Duncan fails to teach:

--the claimed associating exit conditions with respective links, wherein the exit condition for a respective one of the link must be satisfied before the link can be traversed from output to input; and

--the claimed designating planning milestones for ones of the outputs having links spanning across two or more of the process streams.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to includes exit conditions and planning milestones as taught by Gundewar et al. with the system as taught by Duncan with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

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As per claim 22, Duncan disclose a method for executing a build and operate program, comprising the steps of:

--the claimed defining program requirements for each of the processes (see: Duncan, pages 30-32).

--the claimed defining, responsive to said requirement, build, operate, and management processes, and related links therebetween, wherein the build, operate and management processes have respective inputs and outputs, wherein executing such a build process includes building information technology and executing such as operate process includes operating information technology is met the initiating, planning (i.e., build), executing processes (i.e. operation), controlling and closing processes (see: Duncan, Fig. 3-1, page 28, lines 9-10, page 28, lines 11-14). The links are associated with the exit conditions that involve deliverables to be approved before work can proceed. Duncan, Fig 3-1, page 6, lines 15-17, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10); and

--the claimed assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams is met by the design project having a series of phases from conceptual development through definition and implementation to closure (see: Duncan: page 13).

Duncan fails to explicitly teach:

--the claimed associating exit conditions with the respective links, wherein such a links between respective ones of processes is only traversable if exit conditions associated with the link are satisfied;

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--the claimed designating planning milestones for one of the output having links spanning across two or more of the process streams; and

--the claimed executing the processes, including traversing said links over time.

Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61).

One of ordinary skill in the art at the time the invention was made would have found it obvious to includes designating planning milestones and executing programs including traversing the links as taught by Gundewar et al. with the system as taught by Duncan with the motivation of providing tracking tool for meeting criteria of the processes (see: Gundewar et al., col.5, lines 60-64).

As per claim 23, the exit conditions as disclosed by Duncan are associated with approved deliverables (see: Duncan, page 28, lines 15-17, page 11, lines 18-30, page 12, lines 7-10).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over “A Guide To The Project Management Body Of Knowledge” by William R. Duncan and U.S. Patent No. 6,381,610 to Gundewar et al. as applied to claim 6 above, in view of U.S. Patent No. 6,032,124 to Saito.

As per claim 8, Duncan and Gundewar fail to teach the claimed each management process is linked only to either a build process or an operate process.

Saito teaches a business workflow system with decentralized management units linked to the business definitions (i.e. management processes) to direct the workflow (see: Fig. 4, col. 5, lines 29-50).

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include management units manage the business operating processes as taught by Saito with system taught by Duncan and Gundewar with the motivation of coordinating a plurality of business definitions (i.e. processes) and thereby providing an effective business workflow system (see: Saito et al, col. 2, lines 11-16).

Response to Arguments

9. Applicant's arguments filed 2/13/04 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 2/13/04.

(A) In the remarks the Applicant argues in substance that, (1) amended independent claims overcome the 35 USC 101 rejection and now puts the invention in the technological art by reciting "a system for a build and operate program comprises information technology for executing the build and operate program and data structures for processing by the information technology"; and (2) Neither Gundewar nor any other of the teachings suggest selected sets of sequentially-linked ones of the processes, which are designated as respective process stream, are assigned to selected project teams and milestones are designated for ones of the outputs having links spanning across two or more of the process streams.

(B) In response to Applicant arguments that, (1) amended independent claims overcome the 35 USC 101 rejection and now puts the invention in the technological art by reciting "a system for a build and operate program comprises information technology for executing the build and operate program and data structures for processing by the information technology". The Examiner respectfully submits that although the Applicant amended the claims the include

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“information technology” for executing the defined build and operate program and data structures for processing, the Applicant failed to actually execute the program and data structures for processing using information technology. In other word, the build and operate program and data structures for processing are defined but never performed by the information technology. Therefore, the Examiner’s rejection of the claims under 35 USC 101 is indeed proper and should be maintained.

(C) In response to Applicant arguments that, (2) Neither Gundewar nor any other of the teachings suggest selected sets of sequentially-linked ones of the processes, which are designated as respective process stream, are assigned to selected project teams and milestones are designated for ones of the outputs having links spanning across two or more of the process streams. It is respectfully submits that the Examiner has applied new prior art to the amended features of claims 1, 2, 4-6, 8-10, 13-16, 18, 21, 22 and 24 at the present time. As such, Applicant's remarks with regard to the application of Duncan, Saito and/or Gundewar to the amended claims are addressed in the above Office Action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Alexandra P. [illegible]
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Art 3626
Primary Examiner*